

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

PHILIP KEITH LeMASURIER,	§	
	§	
VS.	§	CIVIL ACTION NO.4:05-CV-472-Y
	§	
DOUGLAS DRETKE, Director,	§	
T.D.C.J., Correctional	§	
Institutions Division,	§	
Respondent.	§	

ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS

In this action brought by petitioner Philip Keith LeMasurier under 28 U.S.C. § 2254, the Court has made an independent review of the following matters in the above-styled and numbered cause:

1. The pleadings and record;
2. The proposed findings, conclusions, and recommendation of the United States magistrate judge filed on February 9, 2006; and
3. The petitioner's written objections to the proposed findings, conclusions, and recommendation of the United States magistrate judge filed on February 27, 2006.
4. The respondent's written objections to the proposed findings, conclusions, and recommendation of the United States magistrate judge filed on March 1, 2006.

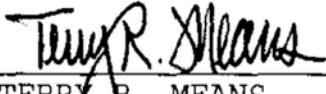
The Court, after de novo review, concludes that the Petitioner's objections must be overruled, that the Respondent's objections must be sustained, and that the magistrate judge's findings and conclusions should be adopted, except to the extent that petitioner LeMasurier's ineffective assistance claims on the basis that counsel failed to prepare for trial and failed to present evidence, should be dismissed with prejudice as unexhausted and barred by procedural default.

Therefore, the findings, conclusions, and recommendation of the magistrate judge are ADOPTED, except as modified herein.

Petitioner Le Masurier's grounds for relief one, two, three, four, six, seven, nine, ten, and his ineffective assistance claims on the basis that counsel failed to prepare for trial and failed to present evidence, are barred from review by this Court on the basis of procedural default, and therefore DISMISSED WITH PREJUDICE.

Petitioner LeMasurier's grounds for relief five, eight, and the remaining ineffective assistance claims asserted as ground eleven, are DENIED.

SIGNED April 10, 2006.



TERRY R. MEANS
UNITED STATES DISTRICT JUDGE